

Town of Lincoln

100 Old River Road, Lincoln RI

Zoning Board of Review

January 3, 2006 Minutes

Present: Raymond Arsenault, Kristin Rao, Nicholas Rampone Arthur Russo, Jr., Jim King, Attorney Mark Krieger

Excused: Gabriella Halmi

Minutes

Motion made by Member Rao to correct the first paragraph of the August 2005 Minutes, which references the Board adjourning to executive session, to read “ ...the Zoning Board unanimously voted to adjourn” and “...the Zoning Board unanimously voted to seal.. .” Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Motion made by Member King to accept the December 2005 Minutes as presented. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

Applications

Tiffany Plaza Limited Partnership, c/o Richard E. Kirby, Esquire, 72 Pine Street, Providence, RI/Tiffany Plaza Limited Partnership, c/o Michael Berkowitz, 60 McGarvey Road, Stoughton, MA – Extension of Dimensional Variance for construction of retail space building on Reservoir Avenue, Lincoln, RI

AP 6, Lot 442 Zoned: BL-0.5

Attorney Krieger informed the Board that he spoke with Russell Hervieux, Zoning Official regarding the fact that the radius map attached to the application was only done for 100 feet and not the required 200 feet. In addition, two notices were returned undelivered resulting in a notice problem. He also spoke with Richard Kirby, Attorney for the applicant, who informed him that he would be turning in a new radius map and abutter list and would be ordering a transcript of the previous hearing for submission to the Board at its February meeting. Attorney Kirby asked that the application be continued to the February agenda to correct the deficiencies.

Member Rao made a motion to continue the application to the February 7, 2006 agenda. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

New Cingular Wireless PCS LLC, 580 Main Street, Bolton, MA/Richard Blanchet, 610 River Road, Lincoln, RI – Use Variance to construct, install, operate and maintain a wireless communications facility on an easement held by the Narragansett Electric Company located at 610 & 640 River Road, Lincoln, RI.

AP 23, Lot 25 Zoned: RA 40

New Cingular Wireless PCS LLC, 580 Main Street, Bolton, MA/Richard Blanchet, 610 River Road, Lincoln, RI – Dimensional Variance for rear

and side yard setback for the construction of an equipment shelter.

AP 23, Lot 25 Zoned RA 40

New Cingular Wireless PCS LLC, 580 Main Street, Bolton, MA/Michael and Carol Lizotte, 640 River Road, Lincoln, RI –Use Variance to construct, install, operate and maintain a wireless communications facility on an easement held by the Narragansett Electric Company located at 610 & 640 River Road, Lincoln, RI.

AP 23, Lot 173 Zoned: RA 40

New Cingular Wireless PCS LLC, 580 Main Street, Bolton, MA/Richard Blanchet, 610 River Road, Lincoln, RI – Dimensional Variance to replace the existing 47’6” utility pole on Lot 173 with a 74’ 6” above ground level wooden pole at 610 & 640 River Road, Lincoln, RI.

AP 23, Lot 173 Zoned RA 40

Chairman Arsenault read into the record letter dated December 30, 2005 from Joseph A. Giammarco, Attorney for applicant, asking that their four applications be withdrawn without prejudice.

Motion made by Motion Russo to accept applicant’s request to withdraw without prejudice their application for Use Variance for AP 23, Lot 25. Motion seconded by Member Rao. Motion carried with a 5-0 vote.

Motion made by Motion Russo to accept applicant’s request to

withdraw without prejudice their application for Dimensional Variance for AP 23, Lot 25. Motion seconded by Member Rao. Motion carried with a 5-0 vote.

Motion made by Motion Russo to accept applicant's request to withdraw without prejudice their application for Use Variance for AP 23, Lot 173. Motion seconded by Member Rao. Motion carried with a 5-0 vote.

Motion made by Motion Russo to accept applicant's request to withdraw without prejudice their application for Dimensional Variance for AP 23, Lot 173. Motion seconded by Member Rao. Motion carried with a 5-0 vote.

Spiro and Mary Dionisopoulos, 5 Bayberry Court, Lincoln, RI – Dimensional Variance for side yard setback for the construction of an addition.

AP 45, Lot 192 Zoned: R 40

Chairman Arsenault informed applicant what standards needed to be met for a Dimensional Variance.

The house is very small and applicant wants to add a bedroom for their daughter. Exterior of addition and roofline will match existing house. (Submitted blueprints of proposed addition as Exhibit #1) Proposed addition will be 22'x26' and applicant is asking for a 24 foot

rear yard setback. Will remove existing porch. (Submitted photos of house as Exhibit #2). Existing house has two bedrooms. Applicant has owned home for 25 years.

Chairman Arsenault read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted site plan, floor plan, and application. Based on the submitted plans, the proposed addition can only be placed on the right side of the house due to the existing floor layout. The Planning Board recommends Approval of this dimensional variance. The Board feels that this plan represents the least relief required, will not alter the general character of the surrounding area nor impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Motion made by Member King to grant a 24 foot rear yard setback stating:

- Hardship from which the applicant seeks is due to the unique characteristics of the subject land and not due to the general characteristics of the surrounding area and not due to a physical or economic disability of the applicant
- Hardship is not the result of any prior action or the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.
- Granting of this variance will not alter the general character of the

surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Comprehensive Plan.

- Relief requested is the least relief necessary.
- Hardship amounts to more than a mere inconvenience.

Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

H.L. George Development Corp, Albion Road, Lincoln, RI – Special Use Permit to conduct a special care residence for Alzheimer patients on property located on Albion Road, Lincoln, RI
AP 41, Lot 44 Zoned: BL 0.5

Represented by: Richard R. Ackerman, Esquire

Applicant wants to build a special care residential facility for the treatment and care of Alzheimer patients. Area is business zoned. Applicant appeared before this Board in the past for this type of facility and was approved. What is before the Board is a new plan. Alzheimer patients do not drive and that is why they are requesting a reduction in parking spaces. Problem with last application was a lack of financing but they presently have investors and bank interest for this project. Construction could start in spring. This type of facility is needed in the state.

Witness:

Herbert L. George, Developer

He started looking into this type of facility when his father was ill. In

1987-88, he built an assisted living facility at Waterman Lake and Canterbury Wood. He was the first to bring assisted living facilities to New England. His dream project is the one before the Board and it would be the first Alzheimer community in Rhode Island. He has obtained backing from both private investors and banks. Alzheimer patients need an environment that is medicinal. The facility is designed especially for Alzheimer patients. It would consist of 60 units – 56 single units and 4 double units. Alzheimer facilities need specialized care and he will be involved with management of the site. He came before this Board back in 2002 with a similar application. At that time, he had a partner whose was suppose to obtain financing but was unable to do so. Applicant now has exclusive ownership of the project. Cost of construction is \$7.2 million. Has spoken with Ed Powers from Sovereign Bank; Merrill Sherman from Bank RI; and Slade Ferry Bank – all three banks are interested in financing the project. Already has \$1.675 million committed by investors. Facility will have 8-9 full time employees on site from 7am-3pm; 8-9 employees on site from 3pm-11pm; and 5 employees on site from 11pm-7am. Feels does not need extra parking because Alzheimer patients do not get many visitors. There will be parking for 28 vehicles. There are wetlands on site. Building will consist of 4 wings with 15-16 units per wing. Building will be single story and 33,433 square feet. Land is owned by Group 295, former partner, and they have an Insignificant Alteration Permit dated March 27, 2003 for the site. Applicant submitted into evidence a letter dated October 17, 2005 addressed to the Zoning Board and signed by Herbert George

and Charles Anderson authorizing Attorney Ackerman to sign the application before this Board (Exhibit #1) on their behalf. Building will be vinyl sided with double hung windows and shingled roof. Employees will wear casual clothing. Site will have a family lounge, office, and meeting room for use by residents. All units will be lockdown and windows will have locks. Courtyard at the rear of the site will be fenced in and main entrance will have a canopy. Each unit will have its own bathroom. Would like to start construction in spring and should finish construction in April or May of 2007.

Chairman Arsenault asked what their evacuation plan was in case of an emergency. Applicant replied all residents and employees would exist into the courtyard and off premises through gates. It is their plan to have fire drills on a monthly basis and staff will be assigned to check certain units to make sure all have evacuated the premises. He will be submitting a policy and procedure manual to the state prior to receiving his license. CNAs and med techs will be on site. Chief Richard Petrin from the Albion Fire Department stated that when evacuating a building, it is sometimes best to stay in rooms. Board members were concerned about the proposed number of parking spaces. Attorney Krieger stated if applicant were to push back a proposed guardrail it could create an additional 10 parking spaces. Chief Petrin stated he brought that to the attention of the Town Engineer.

Chairman Arsenault asked why this particular site. Applicant replied

area is wooded and serene. Lincoln also has one of the highest Alzheimer populations in the state and there is need for this type of facility. Routes 295 and 146 are close by for easy access by family and visitors.

Member Rao asked if applicant had any plans for additional parking. Applicant replied he felt there was sufficient parking with the proposed plan. She asked how he came up with 60 units and he replied it was a standard number.

Witness:

Ken Morin, DiPrete Engineering

He has testified before other boards in the state. Motion made by Member Gobeille to accept Mr. Morin as an expert witness. Motion seconded by Member Rampone. Motion carried with a 5-0 vote.

Site has wetlands to the west with screenings and retaining walls. Code for the site is residential which allows 2 per dwelling units. They used American Planning Association recommendations for parking spaces. Average number of parking spaces for this type of community is 28. Additional parking can be added at the circle in front of the building if necessary. Needs to provide for fire equipment access.

He is familiar with the site and has been involved with the project since 2001. Lot is 4.3 acres with wetlands to the west. Soil at the site

is suitable for development and is primarily wooded. Sewers are in place to the property line and can access public sewers with a pump station on the east side. Applicant will install Cape Cod berms and two detention areas. They have DEM approval for drainage. Water Commission has approved water connections. There is an access driveway on the east side which could be extended for fire access. He revised the plans and showed an additional 5 parking spaces on the western part of the circle and 5 additional spaces at the circle which would bring the parking spaces to 38.

Witness:

John Carter, Landscape Architect

He testified before this Board on the last application. Resume submitted as Exhibit #2. Motion made by Member Rampone to accept Mr. Carter as an expert witness. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote. Mr. Carter submitted landscape plans as Exhibit #3. Witness assessed the site and looked at the topographical features. He has designed gardens for other sites. Unique features of this garden will be lighting, plant selection, fencing, path layouts, colors and use of residential lighting. Property will need clearing and planting of a buffer at the wetlands line. Member Rao asked about location of waste removal receptacles. Witness replied they could be placed along a service road away from public view.

Attorney Krieger addressed the Board informing them he attended

law school with Mr. Carter's wife but they have had minimal contact in the past years and has no bearing on his sitting on the Board.

Member Rao stated she was concerned about parking at the site and did not feel 28 parking spaces would not be enough. Attorney Ackerman replied applicant would be willing to commit to 10 additional parking spaces and bring the number up to 38 if that was a condition for approval. Chief Petrin stated he did not see a problem with providing 10 additional spaces around the circle at the front of the building.

Witness

Paul J. Bannon, RAB Professional Engineers

He testified before this Board on the last application. Resume submitted as Exhibit #4. Motion made by Member Gobeille to accept Mr. Bannon as an expert witness. Motion seconded by Member Rampone. Motion carried with a 5-0 vote.

He is familiar with the site and worked on the original application in 2000. Albion Road services seven homes. Intersection at Route 116 can accommodate the traffic generated from this project. Major traffic on the road will be generated by the employees. There is a 155 unit 55+ facility also coming into the area. If this application were granted, traffic from the new 155 unit facility would not mingle with traffic from this project.

Witness

Bill Caesar, 11 Eagle Nest, Lincoln, RI

He is an investor in this project and has attended 5-6 investor meetings. Applicant has \$1.6 committed to the project with 20 qualified investors who have signed letters of intent. He feels financing is not a problem and the proposal is attractive and contingent upon Zoning Board approval. He helped prepare the business plan for the applicant. He is comfortable with 95% occupancy ratio.

Chairman Arsenault read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of this application for a special use permit. Members of the Technical Review Committee have met several times with the developer and conclude that the requested special use permit and the submitted site plan will not have any adverse effects of the surrounding properties. The Planning Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Motion made by Member Rao to approve the application for Special Use Permit with the condition that the Department of Environmental

Management insignificant alteration permit dated March 27, 2003 is transferred from Group 295 to H.L. George Development Corp. She further stated:

- That the special use is specifically authorized under the Town Ordinance;**
- That the special use meets all the criteria set forth in the Town Ordinance authorizing such special use;**
- That the granting of the special use permit will not alter the general character of the surrounding area; and**
- That the granting of the special use permit will not impair the intent or purpose of the Town Ordinance nor the Lincoln Comprehensive Plan.**

Motion seconded by Member Rampone. Motion carried with a 5-0 vote.

H.L. George Development Corp, Albion Road – Dimensional Variance to reduce number of parking spaces for a special care residence for Alzheimer patients on property located on Albion Road, Lincoln, RI AP 41, Lot 44 Zoned: BL 0.5

Chairman Arsenault read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of this application for a dimensional variance.

Members of the Technical Review Committee have met several times in the past with the developer and conclude that the requested dimensional variance and the submitted site plan will meet the parking requirements of the proposed development and will not have any adverse effects of the surrounding properties. The Planning Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Motion made by Member Rao to approve the Dimensional Variance for the reduction of required parking spaces from 120 to 38. She further stated.

- Hardship from which the applicant seeks is due to the unique characteristics of the subject land and not due to the general characteristics of the surrounding area and not due to a physical or economic disability of the applicant**
- Hardship is not the result of any prior action or the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- Granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Comprehensive Plan.**
- Relief requested is the least relief necessary.**
- Hardship amounts to more than a mere inconvenience.**

Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Member Rao made a motion to adjourn. Motion seconded by Member King. Motion carried with a 5-0 vote.

Respectfully submitted,

Ghislaine D. Therien

Recording Secretary